

SENATE, No. 1917

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED MAY 14, 2012

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator MICHAEL J. DOHERTY

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Restricts certain campaign contributions by public employee labor organizations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2012)

1 AN ACT restricting certain campaign contributions by public
2 employee labor organizations and supplementing P.L.1973, c.83
3 (c.19:44A-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. The Legislature find and declares that:

9 a. In our representative form of government, it is essential that
10 individuals who are elected to public office have the trust, respect
11 and confidence of the citizenry;

12 b. All individuals, business, associations, and other persons
13 have a right to participate fully in the political process of New
14 Jersey, including making and soliciting contributions to candidates,
15 political parties and holders of public office;

16 c. Nevertheless, when a labor organization that represents
17 public employees makes reportable contributions to influence the
18 terms and conditions of employment for its members, this
19 constitutes a violation of the public's trust in government and raises
20 legitimate public concerns about whether the relationship between
21 the public employer and labor organization is untainted and is
22 conducted in the public's interest in important matters of public
23 policy and in the maintenance of the public finances;

24 d. The infusion of funds donated by labor organizations into
25 the political process at all levels of government has generated
26 widespread cynicism among the public that these organizations are
27 unduly influencing elected officeholders;

28 e. Political action committees established by labor
29 organizations spend more than other special interest political action
30 committees and spend the most money;

31 f. For the purposes of protecting the integrity of government
32 decisions and of improving the public's confidence in government,
33 it is a compelling interest of this State to prohibit labor
34 organizations, and their affiliated units and locals, from
35 contributing to candidates, political parties and holders of public
36 office;

37 g. There exists the perception that campaign contributions are
38 often made to a State or county political party committee by a labor
39 organization seeking favor with State elected officials, with the
40 understanding that the money given to such a committee will be
41 transmitted to other committees in other parts of the State, or is
42 otherwise intended to circumvent legal restrictions on the making of
43 political contributions or gifts directly to elected State officials,
44 thus again making elected State officials beholden to those
45 contributors;

46 h. Although the right of individuals, business, and labor
47 organizations to make campaign contributions is unequivocal, that

1 right may be limited, even abrogated, when such contributions
2 promote the actuality or appearance of public corruption;

3 i. It is essential that the public have confidence that the
4 selection of State, county, and local contractors is based on merit
5 and not on political contributions made by such contractors and it is
6 essential that the public have trust in the processes by which
7 taxpayer dollars are spent;

8 j. It is essential that the public have confidence that the terms
9 and conditions of collective negotiations agreements are negotiated
10 at arms-length and that the public have trust in the processes by
11 which such agreements are negotiated; and

12 k. The Legislature must safeguard the integrity of State,
13 county, and local government labor negotiations processes by
14 insulating the negotiations of terms and conditions of public
15 employment from political contributions that pose the risk of
16 improper influence, purchase of access, or the appearance thereof.

17

18 2. Notwithstanding the provisions of any other law to the
19 contrary, including the "New Jersey Employer-Employee Relations
20 Act," P.L.1941, c.100 (C.34:13A-1 et seq.):

21 a. No labor organization that enters into a collective
22 negotiations agreement, including but not limited to a project labor
23 agreement, with the State shall solicit or make a reportable
24 contribution to the State committee of the political party of which
25 the Governor is a member, or to any candidate committee for
26 Governor or Lieutenant Governor or to any State or county political
27 party or of a political party nominating any candidate for Governor
28 or Lieutenant Governor, or to a legislative leadership committee.

29 No such party or committee shall accept such a reportable
30 contribution from a labor organization during the term of a
31 collective negotiations agreement.

32 b. A labor organization that enters into a collective negotiations
33 agreement with the State or a State agency in the Executive Branch
34 shall have a continuing duty to report to the commission any
35 contributions that constitute a violation of P.L.2005, c.51
36 (C.19:44A-20.13 et seq.), as amended and supplemented, that are
37 solicited or made during the duration of or the negotiation of a
38 collective negotiations agreement.

39 c. If a labor organization that is a party to a collective
40 negotiations agreement with the State or a State agency in the
41 Executive Branch solicits or makes a reportable contribution during
42 the term of or the negotiation of a collective negotiations
43 agreement, the local, national or other entity of the labor
44 organization making such contribution shall be liable for a penalty
45 of the greater of:

46 \$10,000 or five percent of the dues paid by regular members of
47 the appropriate labor organization entity in the last 12 months for
48 the first violation;

1 \$25,000 or ten percent of the dues paid by the regular members
2 of the appropriate labor organization entity in the last 12 months for
3 the second violation; or

4 \$50,000 or fifteen percent of the dues paid by the regular
5 members of the labor organization entity in the last 12 months for
6 the third violation.

7 d. Reportable contributions of a high-level official of a labor
8 organization that is a party to a collective negotiations agreement
9 with the State or a State agency in the Executive Branch, that are
10 solicited or made during the term of or the negotiation of a
11 collective negotiation agreement shall be considered to be
12 reportable contributions of the labor organization and shall subject
13 the labor organization to the penalties in subsection c. of this
14 section. In addition, if the commission determines that the high
15 level official willfully and intentionally solicited or made one or
16 more reportable contributions that are limited by this section, the
17 high-level official shall be subjected to a personal penalty for each
18 violation equal to the penalties set forth in subsection 3 of section
19 22 of P.L.1973, c.83 (C.19:44A-22).

20
21 3. Notwithstanding the provisions of any other law to the
22 contrary, including the "New Jersey Employer-Employee Relations
23 Act," P.L.1941, c.100 (C.34:13A-1 et seq.):

24 a. No labor organization that enters into a collective
25 negotiations agreement with a county or municipality shall solicit or
26 make a reportable contribution to any county or municipal
27 committee of a political party in that county or municipality if a
28 member of that political party is serving in an elective public office
29 of that county or municipality or to any candidate committee of any
30 person serving in an elective public office of that county or
31 municipality.

32 No such committee shall accept such a reportable contribution
33 from a labor organization during the term of or the negotiation of a
34 collective negotiations agreement;

35 b. A labor organization that is a party to a collective
36 negotiations agreement with a county or municipality or any agency
37 or instrumentality thereof, shall have a continuing duty to report to
38 the commission any contributions that constitute a violation of
39 P.L.2005, c.51 (C.19:44A-20.13 et seq.), as amended and
40 supplemented that are solicited or made during the duration of or
41 the negotiation of a collective negotiation agreement.

42 c. If an entity that is part of a labor organization that is a party
43 to a collective negotiations agreement with a county or municipality
44 or any agency or instrumentality thereof, makes a reportable
45 contribution during the term of or the negotiation of a collective
46 negotiations agreement, the local, national or other entity of the
47 labor organization shall be liable for a penalty of the greater of:

1 \$10,000 or five percent of the dues paid by regular members of
2 the appropriate labor organization in the last 12 months for the first
3 violation;

4 \$25,000 or ten percent of the dues paid by the regular members
5 of the labor organization in the last 12 months for the second
6 violation; or

7 \$50,000 or fifteen percent of the dues paid by the regular
8 members of the labor organization in the last 12 months for the
9 third violation.

10 d. Reportable contributions of a high-level official of a labor
11 organization that is a party to a collective negotiations agreement
12 with a county or municipality or any agency or instrumentality
13 thereof, that are solicited or made during the term of or the
14 negotiation of a collective negotiations agreement shall be
15 considered to be contributions of the labor organization and shall
16 subject the labor organization to the penalties in subsection c. of
17 this section. In addition, if the commission determines that the
18 high-level labor organization official willfully and intentionally
19 solicited or made one or more reportable contributions that are
20 limited by this section, the high-level official shall be subjected to a
21 personal penalty for each violation equal to the penalties set forth in
22 subsection 3 of section 22 of P.L.1973, c.83 (C.19:44A-22).

23
24 4. It shall be a violation of P.L.2005, c.51 (C.19:44A-20.13 et
25 seq.), as amended and supplemented, for a labor organization or
26 high-level official, and shall subject the labor organization and
27 high-level official to the penalties in sections 2 or 3 of
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 to:

30 make or solicit a reportable contribution in violation of this act;
31 knowingly conceal or misrepresent a reportable contribution
32 given or received;

33 make or solicit reportable contributions through intermediaries
34 for the purpose of concealing or misrepresenting the source of the
35 reportable contribution;

36 make or solicit any reportable contribution on the condition or
37 with the agreement that it will be contributed to a committee;

38 engage or employ a lobbyist or consultant with the intent or
39 understanding that such lobbyist or consultant would make or solicit
40 any reportable contribution, which if made or solicited by the
41 business entity itself, would subject that entity to the provisions of
42 P.L.2005, c.51 (C.19:44A-20.13 et seq.), as amended and
43 supplemented;

44 fund contributions made by third parties, including consultants,
45 attorneys, family members, and employees;

46 engage in any exchange or contributions to circumvent the intent
47 of P.L.2005, c.51 (C.19:44A-20.13 et seq.), as amended and
48 supplemented; or

1 directly or indirectly, through or by any other person or means,
2 do any act which would subject that entity to the provisions of
3 P.L.2005, c.51 (C.19:44A-20.13 et seq.), as amended and
4 supplemented;

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6 5. As used in P.L. , c. (C.) (pending before the
7 Legislature as this bill):

8 "high-level official of a labor organization" means any person
9 authorized to perform the functions of president, vice president,
10 secretary, treasurer, or other executive functions of a labor
11 organization, and any member of its executive board or similar
12 governing body; and

13 "labor organization" means any organization of any kind, any
14 agency, or employee representation committee, group, association,
15 or plan so engaged in which employees participate and which exists
16 for the purpose, in whole or in part, of dealing with employers
17 concerning grievances, labor disputes, wages, rates of pay, hours, or
18 other terms or conditions of employment, and any conference,
19 general committee, joint or system board, or joint council so
20 engaged which is subordinate to a national or international labor
21 organization. This definition includes the national or international
22 labor organization and its member locals including the contracting
23 entity and member locals governed by the collective negotiation
24 agreement at issue and any affiliates of such entities. The definition
25 shall also include any political committees formed by such labor
26 organization.

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28 6. This act shall take effect immediately.
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31 STATEMENT 32

33 This bill applies pay-to-play proscriptions to public employee
34 labor organizations at all levels of government.

35 The bill prohibits a labor organization that enters into a
36 collective negotiations agreement, including a project labor
37 agreement, with the State from making a reportable contribution to
38 the State committee of the political party of which the Governor is a
39 member, or to any candidate committee for Governor or Lieutenant
40 Governor or to any State or county political party or of a political
41 party nominating any candidate for Governor or Lieutenant
42 Governor, or to a legislative leadership committee. It also prohibits
43 a labor organization that enters into a collective negotiations
44 agreement with a county or municipality from making a reportable
45 contribution to any county or municipal committee of a political
46 party in that county or municipality if a member of that political
47 party is serving in an elective public office of that county or
48 municipality or to any candidate committee of any person serving in

1 an elective public office of that county or municipality. A
2 contribution by a high-level official of a labor organization will be
3 considered a contribution by the labor organization. The bill
4 provides monetary penalties for violations.